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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,801	05/22/2001	Tom Van Horn	22930-06067	8921
758	7590	04/06/2006	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			GORT, ELAINE L	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/863,801

Applicant(s)

VAN HORN ET AL.

Examiner

Elaine Gort

Art Unit

3627

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

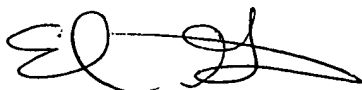
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



Continuation of 11. does NOT place the application in condition for allowance because: The Patent Office has evidence that the current application was owned by Vulcan Portals, INC at the time of filing, not Mercata and thus Halbert is not disqualified as prior art under 103 (c). See attached printouts of the Patent Assignment Abstract of Title for the current application and the Mercata patent 6,101,484 .

## Patent Assignment Abstract of Title

**Total Assignments: 1****Application #:** 09863801**Filing Dt:** 05/22/2001**Patent #:** NONE**Issue Dt:****PCT #:** NONE**Publication #:** NONE**Pub Dt:****Inventors:** Tom Van Horn, Richard V. Halbert, Linda S. Perkins**Title:** Attaining product inventory groupings for sales in a group-buying environment**Assignment: 1****Reel/Frame:** 012192 / 0319 **Received:** 09/27/2001 **Recorded:** 09/21/2001 **Mailed:** 11/30/2001 **Pages:** 4**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).**Assignors:** VAN HORN, TOM**Exec Dt:** 09/05/2001HALBERT, RICHARD V.**Exec Dt:** 09/10/2001PERKINS, LINDA S.**Exec Dt:** 09/09/2001**Assignee:** VULCAN PORTALS, INC.

SUITE 900

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SEATTLE, WASHINGTON 98104

**Correspondent:** FENWICK & WEST LLP

THOMAS L. EWING

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PALO ALTO, CA 94306

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Web interface last modified: Mar 14, 2006 v.1.9

*Applicant was assigned to Vulcan portals*

## Patent Assignment Abstract of Title

**Total Assignments: 2****Application #:** 09281859**Filing Dt:** 03/31/1999**Patent #:** 6101484**Issue Dt:** 08/08/2000**PCT #:** NONE**Publication #:** NONE**Pub Dt:****Inventors:** RICHARD V. HALBERT, NIKLAS GUSTAFSSON, JOHN M. THRUN**Title:** DYNAMIC MARKET EQUILIBRIUM MANAGEMENT SYSTEM, PROCESS AND ARTICLE OF MANUFACTURE**Assignment: 1****Reel/Frame:** 010010 / 0203 **Received:** 06/11/1999 **Recorded:** 06/08/1999 **Mailed:** 08/11/1999 **Pages:** 4**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).**Assignors:** HALBERT, RICHARD V.**Exec Dt:** 04/13/1999GUSTAFSSON, NIKLAS**Exec Dt:** 04/13/1999THRUN, JOHN M.**Exec Dt:** 04/13/1999**Assignee:** MERCATA, INC.110 - 110 AVENUE NORTH EAST, SUITE 390  
BELLEVUE, WASHINGTON 98004**Correspondent:** COOLEY GODWARD LLP  
WILLIS E. HIGGINS  
FIVE PALO ALTO SQUARE  
3000 EL CAMINO REAL  
PALO ALTO, CA 94306**Assignment: 2****Reel/Frame:** 012211 / 0083 **Received:** 10/05/2001 **Recorded:** 10/01/2001 **Mailed:** 12/05/2001 **Pages:** 3**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).**Assignor:** MERCATA, INC.**Exec Dt:** 09/17/2001**Assignee:** VULCAN PORTALS, INC.SUITE 900  
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